

Serial No.: 09/623,793

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REMARKS

Reconsideration of the rejection of claims 1, 3-10 and 14-19 under 35 USC §102(e) as unpatentable over Esposito is respectfully requested.

The examiner states that the functional limitations in the claims have not been given patentable weight. The examiner is requested to reconsider the rejection in light of the discussion regarding functional limitations in the Manual of Patent Examining Procedure at section 2173.05(g). The M.P.E.P. states in this section that "[t]here is nothing inherently wrong with defining some part of an invention in functional terms." Examples of functional limitations that have been found to be acceptable are "adapted to be positioned" and "portions ... being slidably positioned." It is respectfully submitted that the functional recitations in the instant claims are definite under 35 USC §112, second paragraph, and must be given patentable weight.

It is again pointed out that Esposito does not show a two-part enclosure where a first part receives the barrel, the second part receives the plunger, and sterility is maintained when the first and second parts are connected. Thus, Esposito does not anticipate the claims, and the rejection under 35 USC §102 cannot stand.

Further there is nothing in the art of record that would have led one of ordinary skill in the art to the invention as claimed.

Accordingly, it is submitted that this application is in condition for allowance, and an early indication thereof is respectfully requested. The examiner is invited to contact the undersigned if any matter remains outstanding.

All necessary extensions of time are requested. Please charge any necessary fees and credit any excess to deposit account 50-1088.

Respectfully Submitted,
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